

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EUGENE F. MASON, JR.,

Plaintiff,

v.

RICHARD S. MEISNER, ESQ., individually,
RICHARD A. CATALINA, JR., ESQ., individually,
and JARDIM MEISNER SALMON SPRAGUE &
SUSSER, P.C.,

Defendants.

NOTICE OF REMOVAL

Case No.:

**TO: United States District Court
Southern District of New York**

Pursuant to 28 U.S.C. §§ 1441, 1446, 1332 and Local Civil Rule 81.1, the action entitled *Eugene F. Mason, Jr v. Richard S. Meisner, Esq., et al.*, commenced in the Supreme Court of the State of New York for the County of New York, Index Number 151813/2024, is hereby removed by Defendants from the Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York by the filing of this Notice of Removal with the Clerk of the United States District Court for the Southern District of New York.

Defendants, by and through their attorneys, Goldberg Segalla LLP, respectfully state the following as grounds for removing this action:

Procedural History

1. On or about February 28, 2024, the above-captioned civil action was commenced in the Supreme Court of the State of New York, County of New York. Plaintiff's Summons and Complaint were assigned Index Number 151813/2024 ("State Court Action").

2. The individual Defendants have not yet been served with the Summons and Complaint, but a copy of same was dropped off at the offices of JARDIM MEISNER SALMON

SPRAGUE & SUSSER, P.C. (“Jardim Meisner”) on or about March 13, 2024. No affidavits of service have been filed with the Court, however, so Defendants do not concede the propriety of service on any of the parties at this time.

3. Copies of all process, pleadings, and orders served upon parties in the State Court Action are attached hereto as **Exhibit A**.

Factual Background

4. The State Court Action seeks monetary damages in excess of three million dollars for claims sounding in legal malpractice, breach of fiduciary duty, breach of contract and breach of the implied covenant of good faith and fair dealing, arising out of representation provided by the Defendants to Plaintiff in a lawsuit commenced in the Southern District of New York on September 9, 2019, under Index No. 1:19-cv-08364 (DLC) (the “Underlying Action”). See **Exhibit A**.

5. The Underlying Action asserted claims for, among other things, breach of contract and misappropriation of trade secrets, and was assigned to Judge Denise L. Cote.

Parties

6. Upon information and belief, based upon the allegations asserted in the State Court Action, Plaintiff is a citizen of Connecticut, County of Fairfield. See **Exhibit A** (Complaint identifying Plaintiff’s residence as Fairfield County, Connecticut). See also *Diego Beekman Mut. Hous. Ass’n Hous. Dev. Fund Corp. Hdfc. v. Dish Network, L.L.C.*, No. 15 Civ. 1094, 2016 U.S. Dist. LEXIS 33523 (S.D.N.Y. Mar. 15, 2016) (“‘[A]n individual’s residence at the time a lawsuit is commenced provides prima facie evidence of his domicile’ – which in turn determines citizenship.”) (citation omitted).

7. Defendant Richard S. Meisner (“Meisner”) is a citizen and resident of New Jersey,

and domiciled therein.

8. Defendant Richard A. Catalina, Jr. (“Catalina”) is a resident and citizen of New Jersey, and domiciled therein.

9. Defendant Jardim Meisner Salmon Sprague & Susser, P.C. (the “Firm”), is a New Jersey incorporated professional corporation, having a principal place of business at 30B Vreeland Road, Suite 100, Florham Park, New Jersey 07932. As such, it is a citizen of, and domiciled in, New Jersey. *Hertz Corp. v. Friend*, 559 U.S. 77, 81 (2010), quoting 28 U.S.C. § 1332(c)(1)) (A corporation “shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business”) (emphasis omitted).

10. 28 U.S.C. § 1332(a), requires complete diversity of all adverse parties. *See, generally, Handelsman v. Bedford Vill. Assocs. Ltd. P'ship*, 213 F.3d 48, 51 (2d Cir. 2000). Accordingly, full diversity exists between the adverse parties as Plaintiff is a citizen of Connecticut and Defendants are citizens of New Jersey.

Jurisdiction

11. This Court has subject-matter jurisdiction of the action pursuant to 28 U.S.C. § 1332 because it is a civil action between citizens of different states, and the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

Basis for Removal

12. This Court has subject-matter jurisdiction on the basis of diversity of citizenship under 28 U.S.C. § 1332. Venue is proper pursuant to 28 U.S.C. § 1441(a) because this is the federal district court for the district embracing the place where the state court suit is pending.

13. Defendants, all of which consent to this removal, have timely brought this Notice of Removal within 30 days of their receipt of Plaintiff’s complaint containing the monetary

damages sought. *See* 28 U.S.C. § 1446(b).

14. As required by 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon plaintiff, by and through his attorneys of record, and is being filed with the Clerk of the Court of the State of New York, Supreme Court, County of New York.

15. By filing a Notice of Removal in this matter, Defendants do not waive their right to assert any and all defenses and/or objections in this case.

WHEREFORE, Defendant files this Notice of Removal so that the State Court Action bearing Index No. 151813/2024 now pending in the State of New York, Supreme Court, County of New York, be removed to this Court for all further proceedings.

Dated: New York, NY
April 12, 2024

Respectfully submitted,

GOLDBERG SEGALLA LLP

By:



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